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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/691,713	10/18/00	COURY	J 1161

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QM12/1109

EXAMINER

PATEL, M

ART UNIT

PAPER NUMBER

3761

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DATE MAILED:

11/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/691,713

Applicant(s)

COURY ET AL.

Examiner

Mital B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference characters 108, 110, 118, 200, 228, 232, 236, 238, and 242.
2. The drawings are objected to because Figures 5 and 6 are unclear and difficult to read and decipher with respect to the reference characters.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "306" has been used to designate both test switch and reset switch.
4. The drawings are objected to because reference characters 220 and 222 point to the same structural element. It is unclear as to how the vessel is different from the container.

Correction is required.

Specification

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is a lack of antecedent basis in the specification for the claimed terminology "moisturizing vessel" and "radio signal."

Claim Objections

6. The numbering of claims is not in accordance with 37 CFR 1.126.

Misnumbered claim 28, 29, and 30 have been renumbered 27, 28, 29.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 20, 21, 23, 25, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. There is a lack of antecedent basis for the following limitations:

- Claim 20, line 1, "the second person"
- Claim 21, line 6, "the effluent gas"
- Claim 23, line 3, "the influent gas"
- Claim 23, line 3, "the effluent gas"
- Claim 25, line 2, "the recipient"
- Claim 26, line 2, "the effluent gas"

Correction is required.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 3, 4, 5, 6, 7, 11, 13, 14, 15, 16, 17, 21, 23, 24, 25, 26, and 29

(renumbered 27) are rejected under 35 U.S.C. 102(b) as being anticipated by Bird (US 5165398).

12. As to Claim 1, Bird teaches a personal gas supply delivery system comprising a moisturizing vessel **182** for when in use having the capability to contain a liquid to provide a source of moisture to increase the amount of moisture in a gas passing through the liquid, the moisturizing vessel having a first opening for receiving an influent gas, the moisturizing vessel having a second opening for an effluent gas, a first conduit connected with the second opening, the first conduit for when in use, for receiving the effluent gas, a gas flow alarm **287** connected with the first conduit and a second conduit connected with the gas flow alarm, the second conduit in fluid communication with the first conduit, the gas flow for determining the instantaneous pressure differential of the influent gas and the effluent gas.

13. As to Claim 3, Bird teaches a system wherein the gas flow alarm is set to alert a subject desiring to receive the effluent gas when the pressure differential of the influent gas and the effluent gas has met at least one predetermined setting.

14. As to Claim 4, Bird teaches a system wherein the gas flow alarm is set to alert the recipient of the effluent gas by at least one of an audible signal, a visual signal, and a vibratory signal.

15. As to Claim 5, Bird teaches a system wherein the gas flow alarm is set to alert a subject desiring to receive the effluent gas when the pressure differential of the influent

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gas and the effluent gas has met at least one predetermined setting and the alerting of the subject is by visible light.

16. As to Claim 6, Bird teaches a system wherein the gas flow alarm is set alert a subject desiring to receive the effluent gas when the pressure differential of the influent gas and the effluent gas has met at least one predetermined setting and the alerting of the subject is audible.

17. As to Claim 7, Bird teaches a system further comprising a reset or test feature.

18. As to Claim 11, Bird teaches a personal gas supply delivery system comprising a moisturizing vessel **182** for when in use having the capability to contain a liquid to provide a source of moisture to increase the amount of moisture in a gas passing through the liquid, the moisturizing vessel having a first opening for receiving an influent gas, the moisturizing vessel having a second opening for an effluent gas, a first conduit connected with the second opening, the first conduit for when in use, for receiving the effluent gas, a gas flow alarm **287** connected with the first conduit and a second conduit connected with the gas flow alarm, the second conduit in fluid communication with the first conduit, the gas flow for determining an instantaneous difference in the volume of the influent gas per unit of time and the volume of effluent gas per unit of time.

19. As to Claim 13, Bird teaches a system wherein the gas flow alarm is set to alert a subject desiring to receive the effluent gas when an instantaneous difference in the volume of the influent gas per unit of time and the volume of effluent gas per unit of time has met at least one predetermined setting.

20. As to Claim 14, Bird teaches a system wherein the gas flow alarm is set to alert the recipient of the effluent gas by at least one of an audible signal, a visual signal, and a vibratory signal.

21. As to Claim 15, Bird teaches a system wherein the gas flow alarm is set to alert a subject desiring to receive the effluent gas when the volume differential of the influent gas and the effluent gas has met at least one predetermined setting and the alerting of the subject is by visible light.

22. As to Claim 16, Bird teaches a system wherein the gas flow alarm is set alert a subject desiring to receive the effluent gas when the volume differential of the influent gas and the effluent gas has met at least one predetermined setting and the alerting of the subject is audible.

23. As to Claim 17, Bird teaches a system further comprising a reset or test feature.

24. As to Claim 21, Bird teaches a personal gas supply delivery system comprising a first conduit, for when in use receiving a supply of a gas at a first pressure from a first gas supply line, the first conduit connected with a gas flow alarm **287**, the gas flow alarm for when in use for determining an instantaneous difference in the pressure or volume of the gas per unit of time and the volume of the effluent gas per unit of time, a second conduit connected with the gas flow alarm, for when in use receiving the supply of gas through the gas alarm, the first conduit having a first connector, for when in use providing a detachable airtight seal with a compatible connector on gas supply line, the first connector located distally from the gas flow alarm, and the second conduit having a second connector, for when in use providing a second conduit having a second

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connector, for when in use providing a detachable airtight seal with a compatible connector on a second gas supply line, the second connector located distally from the gas flow alarm (See Figure 3, Col. 9, lines 31-59).

25. As to Claim 23, Bird teaches a system wherein the gas flow alarm is set to alert a subject desiring to receive the gas when an instantaneous difference in the volume of the influent gas per unit of time and the volume of effluent gas per unit of time has met at least one predetermined setting.

26. As to Claim 24, Bird teaches a system wherein the gas flow alarm is set to alert a subject desiring to receive the gas when the pressure of the gas has met at least one predetermined setting.

27. As to Claim 25, Bird teaches a system wherein the gas flow alarm is set to alert the recipient of the effluent gas by at least one of an audible signal, a visual signal, and a vibratory signal.

28. As to Claim 26, Bird teaches a system wherein the gas flow alarm is set to alert a subject desiring to receive the effluent gas when the volume of the gas or the pressure of the gas has met at least one predetermined setting.

29. As to Claim 29 (renumbered 28), Bird teaches a system further comprising a reset or test feature.

Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claims 2, 8, 9, 10, 12, 18, 19, 20, 22, 28, and 30 rejected under 35

U.S.C. 103(a) as being unpatentable over Bird.

32. As to Claims 2, 12, and 22, the use of a gas distributive device is known in the art.

33. As to Claims 8, 18, and 30, Bird fails to teach the particulars with respect to the gas flow alarm. However, Applicant has not stated how the particulars solve a stated problem or are advantageous over the prior art. Therefore, the gas-flow-alarm of Bird would function equally as well without comprising the functionality of the gas flow alarm.

34. As to Claims 9, 10, 19, 20, and 22, the use of a transmitter and receiver and a radio signal as a means for alerting are known in the art.

Conclusion

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5890490, US 5881717, US 5540220, US 5452714, US 5423313, US 5347843, US 4821709, US 4681099, US 3985131, US 3831595, US 3794026, and US 3789837.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mital B. Patel whose telephone number is 703-306-5444. The examiner can normally be reached on Monday-Friday (8:00 - 4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4520 for regular communications and 703-306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

mbp
November 5, 2001

John G. Weiss
Supervisory Patent Examiner
Group 3700